



global privacy roundup

AUSTRALIA

On April 11th, the Federal Spam Act came into force. The law includes all forms of electronic marketing and covers advertising sent from overseas. Electronic marketing can not be sent without express consent from consumers, unless there is an existing business relationship. All messages must also identify the sender and provide an opt-out facility.

Penalties for breaching the Act include fines of up to AUS\$220,000 (€137,000) per day and up to AUS\$1.1 million (€685,000) for repeat offenders. Basic guidance published by the Australian Communications Authority can be found at www.aca.gov.au.

EUROPEAN UNION

In April, the EU Data Protection Working Party published its agenda for 2004. Issues to be addressed include developments on the Binding Corporate Rules scheme for international data transfers, simplifying notification procedures, more effective enforcement mechanisms, and working towards an assessment of the privacy laws in Australia and New Zealand.

Additionally, the Working Party has published a number of sector-specific reports including electronic marketing (see p.10), video surveillance, and genetic data.

GERMANY

The German Parliament passed new regulations on unsolicited e-marketing and spam in April. The Law Against Unfair Competition transposes the Privacy & Electronic Communications Directive which was passed in 2002.

The original deadline for implementing the directive was October 2003 and Germany's slow response led to a second warning from the European Commission in early April (see p.7).

HONG KONG

Privacy Commissioner, Raymond Tang, has published guidance for organisations that share marketing data with third parties.

The guidance looks at how personal data should be handled when conducting joint marketing campaigns, recommending that customers be informed about third party advertising prior to any marketing material being sent out, or when their details were first collected.

An organisation handing customer data over to partners should either ensure that it is limited to what is strictly necessary and not used for other purposes, or consider host mailings as a less intrusive alternative. For more information see www.pco.org.hk

IRELAND

In April, the data protection commissioner, Joe Meade, delivered his first annual report under Ireland's new data protection law, which came into effect in July 2003.

The report highlights a sharp rise in complaints with investigations carried out by the commissioner's office revealing a number of compliance issues, including marketing to minors and SMS spam, recruitment and HR, and the disclosure of medical data. Most complaints to the commissioner's office were resolved informally although two law firms were prosecuted for failing to register with the data protection authority.

ITALY

At the end of February, the Italian Data Protection Authority (Garante) warned that organisations will not be allowed to use information from electoral roll lists when conducting marketing campaigns via SMS, mobile phones or e-mail. Under Italy's new Data Protection Code, which came into force on January 1st 2004, marketers are required to obtain explicit opt-in consent from

consumers when carrying out electronic marketing campaigns. However, organisations will still be able to use electoral roll data to send out postal advertising, or even contact consumers by telephone - provided that they are given adequate information notices and the calls are not made by automated dialing systems.

JAPAN

On April 2nd, Japan's government approved a set of 'basic' privacy guidelines. The guidelines aim to complement Japan's Personal Information Protection Law, which was passed in May 2003. The guidelines will apply to all private and public sector organisations that hold data on 5,000 or more individuals, and will require organisations to appoint representatives with responsibility for privacy compliance, as well as developing procedures to prevent unauthorised access to personal data. The guidelines also envisage the creation of further sector-specific guidelines (on areas such as telecommunications, healthcare and financial services) which will be regulated by the relevant government ministries.

Privacy & American Business has launched a new service which aims to help multinationals address privacy issues in their Japanese operations. The service provides users with details on Japan's privacy law and regulations, access to case law, consumer research, and examples of corporate privacy policies. For more information: www.privacyexchange.org

MALAYSIA

In March, the Malaysian government suggested there could be further delays to the introduction of the Personal Data Protection Act. According to Malaysian news service, *The Star*, government minister Dr Rais Yatim said that the delay was due to the need for further comparative studies to ensure that international data protection standards are met.

Although the bill was due to be discussed by Parliament in March, it could now be delayed until the next sitting later this year.

SWEDEN

Sweden's new regulations on electronic marketing came into effect on April 1st. Businesses marketing to Swedish citizens will now have to obtain explicit (opt-in) consent before sending them advertising via e-mail, SMS or fax. See p.10 for full report.

UNITED KINGDOM

UK members of the European Parliament (MEPs) have been lobbying for stronger safeguards for personal data outsourced to third parties outside the EU. At the beginning of April, the MEPs called for stronger enforcement of European data protection laws and a requirement for companies operating outside the EU to inform customers from where they are calling.

The Department of Trade & Industry has confirmed that the government will introduce a new telemarketing registry for business users on June 25th this year. Businesses will be able to opt-out from receiving telemarketing calls by registering their phone numbers onto a national do-not-call list.

UNITED STATES

In March, two US senators introduced a bill aimed at restricting the commercial exchange of data on children. The proposed Children's Listbroker Privacy Act would place a ban on the sale of personal data relating to anyone under 16, unless parental consent has been obtained. The bill goes further than the existing Children's Online Privacy Protection Act (COPPA) which currently applies only to children under the age of 13.

Meanwhile, at the end of February, the Federal Trade Commission announced major settlements with two companies for allegedly infringing COPPA by collecting data on under 13s without parental consent. UMG Recordings agreed to pay a \$400,000 civil penalty, while Bonzi Software agreed to pay \$75,000.



events diary

Advanced Legal Data Protection & Privacy Forum May 19-20, London, UK

Providing case studies and legal advice on issues such as e-marketing, data transfers and subject access requests, this conference features speakers from the Information Commissioner's office, the European Commission and leading UK businesses.

Contact: Centaur Conferences

Tel: +44 (0) 207 970 4770

E-mail: conferences@centaur.co.uk

Website: www.centaur-conferences.co.uk

5th National Global HR Privacy Conference 2004 May 26-27, Washington, United States

Featuring presentations on issues such as outsourcing, data transfers, medical privacy and employee monitoring. The conference also features international updates on countries such as Germany, the UK, Canada, Hong Kong and Japan.

Contact: Privacy & American Business

Tel: +1 201 996 1154

Website: www.pandab.org

IAPP - TRUSTe Symposium: Privacy Futures June 9-11, San Francisco, United States

Examining the privacy developments and future challenges for commercial business, this event focuses on how privacy affects corporate brands, privacy ROI, the role of technology and more.

Contact: Shara Prybutok, IAPP

Tel: +1 (800) 546 3750

E-mail: shara.prybutok@privacyassociation.org

Website: www.privacyfutures.org

Privacy Laws & Business' 17th Annual International Conference July 5-7, Cambridge, UK

The focus of this year's conference is how to integrate privacy into your business strategy. 50 speakers including regulatory authorities, privacy managers and industry groups will address key issues such as outsourcing, marketing and HR.

A full programme will be available shortly via our website. See: www.privacylaws.com/whats-newframe.htm

How to use the Information Commissioner's DP Audit Manual May 10-11, 2004 - London; July 6-7, 2004 - Cambridge

Privacy Laws & Business is conducting a series of interactive audit workshops across the UK or available in-house.

Contact: Glenn Daif-Burns, Privacy Laws & Business

Tel: +44 (0) 208 423 1300

E-mail: glenn@privacylaws.com

Website: www.privacylaws.com/whats-newframe.htm

The Data Protection Act Explained - Basic Training for Beginners April 27 - Manchester; June 9 - London; September 21 - London; October 26 - Glasgow; December 7 - London

Privacy Laws & Business consultant, Valerie Taylor, presents a series of training workshops aimed at anyone who requires a basic course explaining the fundamentals of the Data Protection Act.

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